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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

TIMOTHY M. CAMPBELL,

Plaintiff and Respondent,

v.

JOSEPH SIMMONDS,

Defendant and Appellant.

B166901

(Los Angeles County  
Super. Ct. No. BC215117)

APPEAL from a judgment of the Superior Court of Los Angeles County, Murray Gross, Judge. Affirmed.

Billy H. Hairston for Defendant and Appellant.

Khiterer Law Office and Vladimir Khiterer for Plaintiff and Respondent.

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Defendant and appellant Joseph Simmonds appeals the trial court's order amending a civil judgment against him to include his full name, Yussuf Joseph Simmonds, and several variations on that name. His arguments for reversal are founded on the premise that to add his full name and aliases to the judgment is the equivalent of adding new parties to the concluded litigation. Finding that argument to be without support, we affirm.

Simmonds contends that Code of Civil Procedure<sup>1</sup> section 473 does not permit the addition of new parties to litigation; that section 474 sets forth the procedure for suing defendants by fictitious names; that plaintiff and respondent Timothy Campbell did not follow the section 474 procedure and name Doe defendants in his complaint; that section 474 did not apply because Campbell had not been ignorant of Simmonds's true identity; and that absent authority under section 474, no new parties may be added to the litigation at this late date because the statute of limitations for the underlying claim has now run. (§§ 473, 474; *Kerr-McGee Chemical Corp. v. Superior Court* (1984) 160 Cal.App.3d 594, 598-601 (*Kerr-McGee*); *California Air Resources Bd. v. Hart* (1993) 21 Cal.App.4th 289, 300-301; *Woo v. Superior Court* (1999) 75 Cal.App.4th 169, 176-177.)

Simmonds fails to acknowledge the difference between belatedly interjecting a stranger into an action through amendment and correcting a party's name on a judgment after that party was named in the complaint, served with process, and participated in the litigation. (Cf. *People v. Landon White Bail Bonds* (1991) 234 Cal.App.3d 66, 78 ["there was no belated joinder in the action but at most a belated amendment of the judgment to explicitly state what was already understood"].) The authorities on which he relies concern the first situation—the untimely use of amendment to drag a new party into the litigation—and explicitly distinguish the situation we face here in which a naming error is corrected by amendment. For instance, in *Kerr-McGee, supra*, 160 Cal.App.3d at page 599, the court observed that “before the [trial] court allowed Kerr-McGee to be

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<sup>1</sup> All statutory references are to the Code of Civil Procedure.

substituted into the action pursuant to section 473 it was a stranger to the action. Clearly, the court's action was nothing less than permitting the addition of a new party to replace a named party defendant." Allowing such an amendment, the *Kerr-McGee* court explained, "would be to convert [section 473] into a substantive authority to add an entirely new party to a proceeding after the statute of limitations has run, rather than to interpret it as it always has been interpreted, as a procedural statute to authorize correction of obvious and minor mistakes, such as in spelling of a defendant's name." (*Id.* at p. 599, fn. 3.) These decisions emphasize that which Simmonds ignores—that "it is important to maintain the distinction between correcting an honest error in the name of a correctly named party and joining a new party in the litigation for the first time under the guise of a claim of misnomer." (*Id.* at pp. 599-600, fn. 3; see also *California Air Resources Bd. v. Hart*, *supra*, 21 Cal.App.4th at p. 301.)

The trial court was authorized to amend the judgment to reflect Simmonds's full name and other names he used. "A court of general jurisdiction has the power, after final judgment, and regardless of lapse of time, to correct clerical errors or misprisions in its records, whether made by the clerk, counsel or the court itself, so that the records will conform to and speak the truth. [Citations.]' [Citation.]" (*Ames v. Paley* (2001) 89 Cal.App.4th 668, 672.) This authority, set forth in section 473, subdivision (d), extends to correcting judgments to reflect a party's true name. (*Thomson v. L. C. Roney & Co.* (1952) 112 Cal.App.2d 420, 427; see also *Brum v. Ivins* (1908) 154 Cal. 17, 20-21; *Mirabito v. San Francisco Dairy Co.* (1935) 8 Cal.App.2d 54, 60; cf. *Bufalini v. DeMichelis* (1955) 136 Cal.App.2d 458 [affirming clerical amendment to judgment that more clearly described mining claims that had been referred to by informal names].)

In his opening brief, Simmonds challenged only the power of the trial court to amend the judgment to include additional names—he did not argue that the amendments were otherwise improper or that the evidence was insufficient to support the amendment order. Nor did Simmonds contend that the trial court had failed to consider appropriate factors or that it abused its discretion when it rejected his argument that the amendment should be discretionarily denied on the basis of laches—he merely repeated verbatim the

argument he had made to the trial court that it had the discretion to refuse belated amendments and noted the nearly two-year lapse in time between the judgment and the motion to amend. As Simmonds has not demonstrated any error in the court's decision or any prejudice resulting from the court's order, he has not established reversible error. (Cal. Const., art. VI, § 13 [permitting reversal of a judgment only if, "after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice"].)

Although Simmonds also requests reversal of the court's assignment order and its denial of his claim of exemption, we do not address these rulings because Simmonds presented no argument or authority to support his appeal. (*People v. Barnett* (1998) 17 Cal.4th 1044, 1107, fn. 37 ["As this contention is perfunctorily asserted without any analysis or argument in support, we reject it as not properly raised"].)

### **DISPOSITION**

The judgment is affirmed. Respondent shall receive his costs on appeal.

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ZELON, J.

We concur:

PERLUSS, P. J.

WOODS, J.